

**Objection to Issuance of Construction Permit No. 15345R,
Water Pollution Treatment/Control Facility, Plaza Utilities LLC, Hancock County, Indiana.**

**Matthew J. Donnelly, Donna Rogler, Howard N. Timmerman, Dorothy Timmerman, Elaine Key, Welby Key,
John Peterson, B. Schoppel, Carol Schreiber, Todd Barnes: Petitioners;
Plaza Utilities LLC: Permittee/Respondent;
Indiana Department Of Environmental Management: Respondent.
2007 OEA 146 (07-W-J-3925)**

OFFICIAL SHORT CITATION NAME: When referring to 2007 OEA 146, cite this case as
Plaza Utilities, LLC, 2007 OEA 146.

TOPICS:

water
postmark
filing
4-21.5-3-7(a)(3)
13-15-6-1
4-21.5-3-2(e)
13-15-6-7(d)
315 IAC 1-3-3(c)

PRESIDING JUDGE:

Gibbs

PARTY REPRESENTATIVES:

Petitioners: *pro se*
IDEM: Steven Griffin, Esq.

ORDER ISSUED:

June 6, 2007

CATEGORY INDEX:

Water

FURTHER CASE ACTIVITY:

[none]

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Conclusions of Law

1. The Office of Environmental Adjudication (“OEA”) has jurisdiction over the decisions of the Commissioner of the Indiana Department of Environmental Management (“IDEM”) and the parties to this controversy pursuant to Ind. Code §4-21.5-7, et seq.
2. Findings of Fact that may be construed as Conclusions of Law and Conclusions of Law that may be construed as Findings of Fact are so deemed.
3. Ind. Code § 4-21.5-3-7(a)(3) and Ind. Code § 13-15-6-1 require that a petition for review must be filed within fifteen (15) days after a person is given notice of the issuance of a NPDES permit. Ind. Code § 4-21.5-3-2(e) and Ind. Code § 13-15-6-7(d) provide that three (3) days shall be added to this time if the notice is served by mail.
4. Pursuant to 315 IAC 1-3-3(c), the filing of a petition for review shall be determined by the postmark if the document is mailed via U.S. mail. The postmark on this Petition was May 30, 2007; therefore the Petition is deemed filed as of that date.
5. In order to be timely, the Petition must have been postmarked May 29, 2007 or otherwise filed with the Office of Environmental Adjudication in accordance with the statutes and applicable rules.

Final Order

AND THE COURT, being duly advised, **ORDERS, ADJUDGES AND DECREES** that this matter is **DISMISSED**.

You are hereby further notified that pursuant to provisions of IND. CODE § 4-21.5-7.5, the Office of Environmental Adjudication serves as the Ultimate Authority in the administrative review of decisions of the Commissioner of the Indiana Department of Environmental Management. This is a Final Order subject to Judicial Review consistent with applicable provisions of IC 4-21.5. Pursuant to IC 4-21.5-5-5, a Petition for Judicial Review of this Final Order is timely only if it is filed with a civil court of competent jurisdiction within thirty (30) days after the date this notice is served.

IT IS SO ORDERED this 6th day of June, 2007 in Indianapolis, IN.

Hon. Catherine Gibbs
Environmental Law Judge